

House File 551 - Introduced

HOUSE FILE 551

BY SHIPLEY

A BILL FOR

1 An Act establishing a sunset advisory committee within the
2 general assembly, providing for review of executive branch
3 agencies by the committee and related duties and procedures,
4 providing for the automatic sunset of certain executive
5 branch agencies and related procedures, and including
6 effective date provisions.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. **4A.1 Short title.**

2 This chapter shall be known as and may be cited as the "*Iowa*
3 *Sunset Act*".

4 Sec. 2. NEW SECTION. **4A.2 Definitions.**

5 As used in this chapter, unless the context otherwise
6 requires:

7 1. "*Agency*" means any department, commission, board,
8 institution, bureau, office, or other agency of the executive
9 branch.

10 2. "*Agency review criteria*" means the criteria required to
11 be considered under section 4A.9.

12 3. "*Committee*" means the sunset advisory committee created
13 pursuant to section 4A.3.

14 4. "*Sunset*" means the termination of all activities of an
15 agency.

16 5. "*Sunset review*" means the process of review of an agency
17 by the committee pursuant to sections 4A.4 through 4A.9.

18 Sec. 3. NEW SECTION. **4A.3 Sunset advisory committee**
19 **established.**

20 1. A sunset advisory committee is established which shall
21 carry out the functions provided in this chapter.

22 2. *a.* The committee shall consist of three members of the
23 senate appointed by the majority leader of the senate, two
24 members of the senate appointed by the minority leader of the
25 senate, three members of the house of representatives appointed
26 by the speaker of the house of representatives, and two members
27 of the house of representatives appointed by the minority
28 leader of the house of representatives. The majority leader
29 of the senate and the speaker of the house of representatives
30 shall each appoint an ex officio, nonvoting public member of
31 the committee. An individual shall not serve as a public
32 member of the committee for more than two consecutive terms
33 and is ineligible to serve as a public member of the committee
34 if the individual or the individual's spouse is any of the
35 following:

1 (1) Registered as a lobbyist pursuant to section 68B.36.

2 (2) Licensed, certified, registered with, or otherwise
3 subject to direct regulation by an agency subject to review by
4 the committee during the term for which the individual would
5 serve on the committee.

6 (3) Employed by an entity that is licensed, certified,
7 registered with, or otherwise subject to direct regulation by
8 an agency subject to review by the committee during the term
9 for which the individual would serve on the committee.

10 b. Members shall be appointed no later than the first day of
11 the first regular session of each general assembly and shall
12 serve for terms ending upon the convening of the following
13 general assembly or when their successors are appointed,
14 whichever is later. A vacancy shall be filled in the same
15 manner as the original appointment and shall be for the
16 remainder of the unexpired term of the vacancy.

17 3. The committee shall elect a chairperson and vice
18 chairperson. The committee shall prescribe its rules of
19 procedure.

20 4. The members of the committee shall be reimbursed for
21 actual and necessary expenses incurred in the performance of
22 their duties and the legislative members shall be paid a per
23 diem as specified in section 2.10 for each day in which they
24 engaged in the performance of their duties. However, per diem
25 compensation and expenses shall not be paid when the general
26 assembly is actually in session at the seat of government.
27 Expenses and per diem shall be paid from funds appropriated
28 pursuant to section 2.12.

29 5. Administrative assistance shall be provided by the
30 legislative services agency and by staff of each caucus of the
31 general assembly.

32 Sec. 4. NEW SECTION. 4A.4 Sunset review schedule.

33 1. The committee shall establish a twelve-year schedule
34 for sunset review of all agencies and update the schedule
35 annually. The schedule shall be structured so that each agency

1 is subject to sunset review at least every twelve years. The
2 committee shall incorporate newly established agencies into the
3 schedule. The committee may modify the schedule as necessary
4 to facilitate the efficient administration of the committee,
5 but in no case shall more than twelve years pass before an
6 agency is subject to sunset review. The committee shall
7 schedule an agency subject to sunset pursuant to section 4A.10
8 for sunset review in the calendar year before the agency will
9 sunset. The general assembly shall publish the schedule on the
10 general assembly's internet site.

11 2. Sunset reviews shall commence in calendar year 2021. The
12 committee shall establish an initial schedule for the first
13 year of sunset review no later than January 1, 2020.

14 Sec. 5. NEW SECTION. **4A.5 Information to be reported by**
15 **agencies to committee.**

16 By January 1 of the calendar year before the calendar year in
17 which an agency is subject to sunset review, the agency shall
18 report all of the following information to the committee:

19 1. Information regarding the applicability of the agency
20 review criteria to the agency.

21 2. Any other information that the agency considers
22 appropriate or that is requested by the committee.

23 Sec. 6. NEW SECTION. **4A.6 Sunset review — duties of**
24 **committee — report.**

25 1. During the calendar year in which an agency is subject to
26 sunset review, the committee shall do all of the following:

27 a. Review and take any action necessary to verify
28 information contained in the report submitted by the agency
29 pursuant to section 4A.5.

30 b. Consult with the appropriations committees of the senate
31 and house of representatives, the department of management,
32 the auditor of state, and the treasurer of state as necessary
33 regarding the applicability of the agency review criteria to
34 the agency.

35 c. Conduct one or more public hearings concerning but not

1 limited to the applicability of the agency review criteria to
2 the agency.

3 *d.* Conduct a performance evaluation of the agency based on
4 the agency review criteria and prepare a written report on the
5 committee's findings and recommendations pursuant to section
6 4A.8.

7 2. During the second calendar year after an agency is
8 subject to sunset review, the committee shall review the
9 implementation of recommendations contained in the report
10 presented to the general assembly pursuant to section 4A.8 and
11 any resulting legislation.

12 Sec. 7. NEW SECTION. **4A.7 Criteria considered by committee.**

13 The committee shall consider all of the following
14 criteria in determining whether a public need exists for
15 the continuation of an agency or for the performance of the
16 functions of the agency:

17 1. The efficiency and effectiveness with which the agency
18 operates.

19 2. *a.* Identification of the objectives intended for the
20 agency and the problems or needs that the agency was intended
21 to address.

22 *b.* An assessment of the extent to which the objectives have
23 been achieved and the problems or needs have been addressed.

24 *c.* An assessment of whether less restrictive or alternative
25 methods of performing any function that the agency performs
26 could achieve the objectives or address the problems or needs.

27 3. Identification of any activities of the agency in
28 addition to those specifically required or authorized by
29 statute and the authority for carrying out such activities, as
30 well as the extent to which the activities are needed.

31 4. An assessment of the specific authority of the agency
32 to impose any fees or penalties it imposes and to conduct any
33 inspections that it conducts.

34 5. The extent to which the jurisdiction of the agency and
35 the programs administered by the agency overlap or duplicate

1 those of other agencies, the extent to which the agency
2 coordinates with those agencies, and the extent to which the
3 programs administered by the agency could be consolidated with
4 the programs of other agencies.

5 6. An evaluation of the promptness and effectiveness with
6 which the agency disposes of complaints concerning persons
7 affected by the agency, including an assessment of the agency's
8 contested case procedures pursuant to chapter 17A.

9 7. An assessment of the agency's rulemaking process and
10 extent to which the agency has encouraged participation by
11 the public in making rules and the extent to which the public
12 participation has resulted in rules that benefit the public.

13 8. The extent to which the agency has complied with
14 applicable requirements of all of the following:

15 a. Federal and state laws regarding equality of employment
16 opportunity and the rights and privacy of individuals.

17 b. State law and applicable rules of any agency regarding
18 purchasing goals and programs for historically underutilized
19 businesses, including but not limited to the goals for small
20 businesses and targeted small businesses in this state under
21 section 73.16.

22 9. The extent to which the agency adopts and enforces rules
23 or other policies relating to potential conflicts of interest
24 of its employees.

25 10. The extent to which the agency complies with chapter 22
26 and follows records management practices that enable the agency
27 to respond efficiently to requests for public information.

28 11. The effect of federal intervention or loss of federal
29 funds if the agency were to sunset.

30 12. The extent to which the purpose and effectiveness of
31 any reporting requirements imposed on the agency justify the
32 continuation of the requirements.

33 13. An assessment of the agency's cybersecurity practices
34 using information available from the agency, the office of the
35 chief information officer, or any other agency.

1 Sec. 8. NEW SECTION. **4A.8 Committee reports on sunset**
2 **reviews.**

3 1. No later than the beginning of each regular session of
4 the general assembly, the committee shall submit to the general
5 assembly and the governor a report on each agency subject
6 to sunset review during the previous calendar year. In the
7 report, the committee shall include all of the following:

8 *a.* The committee's findings regarding the agency review
9 criteria.

10 *b.* The committee's recommendations regarding the abolition,
11 continuation, or reorganization of the agency and on the need
12 for the performance of the functions of the agency.

13 *c.* The committee's recommendations on the consolidation,
14 transfer, or reorganization of programs or other functions
15 within agencies not reviewed if the programs or other functions
16 duplicate programs or other functions of the agency under
17 review.

18 *d.* The committee's recommendations to improve the operations
19 of the agency, including recommendations that do not require
20 legislative action.

21 *e.* Any draft legislation necessary to carry out the
22 committee's recommendations.

23 *f.* The estimated fiscal impact of the committee's
24 recommendations. The committee may also recommend
25 appropriation levels for certain programs to improve the
26 operations of the agency, which shall be forwarded to the
27 appropriate joint appropriations subcommittee.

28 *g.* Any other information the committee finds appropriate for
29 consideration by the general assembly and the governor.

30 2. On the date the committee presents its report to the
31 general assembly pursuant to subsection 1, the committee shall
32 submit to the auditor of state the committee's recommendations
33 that do not require a statutory enactment to be put into
34 effect. The auditor of state shall examine the recommendations
35 and shall prepare, as part of the next scheduled audit of

1 the agency, a report on the manner in which the agency has
2 implemented the committee's recommendations and submit the
3 report to the committee.

4 Sec. 9. NEW SECTION. **4A.9 Agencies and employees to provide**
5 **assistance to committee.**

6 1. Agencies and employees of agencies shall assist the
7 committee in gathering information necessary to carry out the
8 committee's functions pursuant to this chapter upon request.

9 2. In carrying out the committee's functions pursuant
10 to this chapter, the committee or the committee's staff may
11 inspect the records, documents, files, or other information of
12 any agency. If material sought by the committee is required
13 by law to be kept confidential, the committee and committee
14 staff shall have access to the material, but shall maintain the
15 confidentiality of the material.

16 Sec. 10. NEW SECTION. **4A.10 Automatic sunset date for**
17 **agencies.**

18 1. Unless an agency is expressly exempted from this chapter
19 by law, if a law establishing an agency is enacted on or after
20 July 1, 2020, the law shall include a sunset clause clearly
21 indicating the date of the agency's sunset unless the agency is
22 reauthorized by enactment by the general assembly.

23 2. If an agency is reauthorized by enactment by the general
24 assembly prior to sunset, such enactment shall include a
25 provision specifying that the agency shall sunset at a date
26 not more than twelve years from the effective date of the
27 enactment.

28 3. Unless expressly provided by law, funding shall not be
29 expended for or by an agency that has sunset except pursuant
30 to section 4A.12.

31 Sec. 11. NEW SECTION. **4A.11 Rights and duties not affected**
32 **by agency sunset.**

33 Unless otherwise expressly provided by law, the sunset of
34 an agency does not affect the rights and duties that matured,
35 penalties incurred or imposed, civil or criminal liabilities

1 that arose, or proceedings initiated in connection with the
2 agency before the effective date of the agency's sunset.

3 Sec. 12. NEW SECTION. **4A.12 Procedures for agencies that**
4 **sunset — continuing obligations.**

5 1. *a.* An agency that has sunset may continue in existence
6 to conclude its business until July 1 of the fiscal year
7 following the fiscal year in which the agency was sunset.
8 Unless otherwise provided by law, the sunset of an agency does
9 not reduce or otherwise limit the powers and authority of the
10 agency during the concluding year.

11 *b.* An agency shall terminate all activities on or before
12 the date specified in paragraph "a". Unless otherwise provided
13 by law, all rules adopted by the agency shall be void on that
14 date.

15 2. *a.* Any unobligated or unexpended appropriations of an
16 agency that has sunset shall lapse and revert to the general
17 fund of the state on the date specified in subsection 1.

18 *b.* Except as provided by subsection 4 or as otherwise
19 provided by law, all moneys in a dedicated fund of an agency
20 that has sunset shall be transferred to the general fund of the
21 state on the date specified in subsection 1. Any portion of a
22 law dedicating moneys to a specific fund of an agency that is
23 sunset is void on the date specified in subsection 1.

24 3. Unless the governor designates an appropriate agency
25 as described in subsection 4, the property and records in the
26 custody of an agency that has sunset shall be transferred to
27 the department of administrative services on the date specified
28 in subsection 1. If the governor designates an appropriate
29 agency as described in subsection 4, the property and records
30 shall be transferred to the designated agency.

31 4. *a.* In recognition of the state's continuing obligation
32 to pay bonded indebtedness and all other obligations, including
33 lease, contract, and other written obligations, incurred by
34 an agency that has sunset, the sunset of the agency shall not
35 impair or impede payment of bonded indebtedness and all other

1 obligations, including lease, contract, and other written
2 obligations, in accordance with their terms.

3 **b.** If an agency that has sunset has outstanding bonded
4 indebtedness or other outstanding obligations, including lease,
5 contract, or other written obligations, the bonds and all other
6 such obligations remain valid and enforceable in accordance
7 with their terms and remain subject to all applicable terms and
8 conditions of the laws and proceedings authorizing the bonds
9 and all other such obligations. The governor shall designate
10 an appropriate agency to continue to carry out all covenants
11 contained in the bonds and in all other such obligations, and
12 the proceedings authorizing them, including the issuance of
13 bonds, and the performance of all other obligations necessary
14 to complete the construction of projects or the performance of
15 the other obligations. The designated agency shall provide
16 payment from the sources of payment of the bonds in accordance
17 with the terms of the bonds and shall provide payment from the
18 sources of payment from all other obligations in accordance
19 with their terms, whether from taxes, revenues, or otherwise,
20 until the bonds and interest on the bonds are performed and
21 paid in full. If the terms of the obligations so provide, all
22 funds established by law or proceedings authorizing the bonds
23 or authorizing the other obligations shall remain with the
24 treasurer of state or previously designated trustees. If the
25 terms of the obligations do not provide that the funds remain
26 with the treasurer of state or previously designated trustees,
27 the funds shall be transferred to the designated agency.

28 **Sec. 13. NEW SECTION. 4A.13 Department of workforce**
29 **development to assist displaced employees.**

30 If an employee is discharged because the agency employing
31 the employee sunsets, the affected agency and the department of
32 workforce development shall make a reasonable effort to assist
33 the discharged employee in obtaining new employment.

34 **Sec. 14. NEW SECTION. 4A.14 Activities of the general**
35 **assembly not restricted.**

1 This chapter shall not be construed to restrict the general
2 assembly from doing any of the following:

3 1. Enacting an agency sunset at a date earlier than required
4 under this chapter.

5 2. Considering any other legislation concerning an agency
6 subject to this chapter.

7 Sec. 15. REPEAL. Section 2.69, Code 2019, is repealed.

8 Sec. 16. EFFECTIVE DATE. This Act, being deemed of
9 immediate importance, takes effect upon enactment.

10 EXPLANATION

11 The inclusion of this explanation does not constitute agreement with
12 the explanation's substance by the members of the general assembly.

13 This bill establishes a new Code chapter which is to be known
14 as and may be cited as the "Iowa Sunset Act".

15 The bill establishes a sunset advisory committee in the
16 general assembly, consisting of five members from each
17 legislative chamber, with three members appointed from the
18 majority party and two from the minority party. The committee
19 also includes two ex officio, nonvoting public members
20 appointed by the majority leader of the senate and the
21 speaker of the house of representatives, respectively. The
22 bill provides additional eligibility criteria for the public
23 members. The bill includes additional procedural matters
24 relating to establishment of the committee.

25 The bill establishes a sunset review process for executive
26 branch agencies to be carried out by the committee. The
27 bill establishes criteria for the committee to consider in
28 such reviews to determine whether a public need exists for
29 the continuation of an agency or for the performance of the
30 functions of the agency. The criteria include but are not
31 limited to the efficiency and effectiveness with which the
32 agency operates, identification of the objectives intended
33 for the agency and the problems or needs that the agency was
34 intended to address, identification of activities of the agency
35 in addition to those required or authorized by statute, an

1 assessment of the specific authority of the agency to impose
2 any fees or penalties it imposes and to conduct any inspections
3 that it conducts, and various other matters.

4 The bill requires an agency to report information regarding
5 the applicability of the agency review criteria to the agency,
6 as well as any other information that the agency considers
7 appropriate or that is requested by the committee, to the
8 committee by January 1 of the calendar year before the calendar
9 year in which an agency is subject to sunset review. The bill
10 requires the committee to take any action necessary to verify
11 the information contained in the report.

12 The bill requires the committee to establish a 12-year
13 schedule for sunset review of all agencies and to update
14 the schedule annually. The bill requires the committee to
15 incorporate newly established agencies into the schedule and to
16 schedule agencies subject to sunset under the bill for sunset
17 review in the calendar year before the agency will sunset.
18 Sunset reviews shall commence in calendar year 2021, and the
19 committee is required to establish an initial schedule for the
20 first year of sunset review no later than January 1, 2020.

21 The bill requires the committee to consult with the
22 appropriations committees of the senate and house of
23 representatives, the department of management, the auditor
24 of state, and the treasurer of state as necessary regarding
25 the applicability of the agency review criteria to an agency
26 subject to sunset review. The bill requires the committee to
27 conduct one or more public hearings concerning but not limited
28 to the applicability of the agency review criteria to the
29 agency.

30 The bill requires the committee to submit to the general
31 assembly and the governor a report on each agency subject to
32 sunset review during the previous calendar year no later than
33 the beginning of each regular session of the general assembly.
34 The bill provides the content of the report, which includes but
35 is not limited to committee's findings regarding the agency

1 review criteria; the committee's recommendations regarding
2 the abolition, continuation, or reorganization of the agency;
3 the committee's recommendations to improve the operations of
4 the agency; any draft legislation necessary to carry out the
5 committee's recommendations; and the estimated fiscal impact of
6 the committee's recommendations.

7 The bill requires the committee to review the implementation
8 of recommendations contained in the report and any resulting
9 legislation during the second calendar year after an agency is
10 subject to sunset review.

11 The bill requires the committee to submit the committee's
12 recommendations that do not require a statutory enactment to
13 be put into effect to the auditor of state. The bill requires
14 the auditor of state to report on the implementation of the
15 recommendations by the agency in the next audit of the agency.

16 The bill requires agencies and employees of agencies to
17 assist the committee in gathering information necessary to
18 carry out the committee's functions pursuant to the bill upon
19 request. The bill authorizes the committee or the committee's
20 staff may inspect the records, documents, files, or other
21 information of any agency in carrying out the committee's
22 functions pursuant to the bill. The bill requires the
23 committee and committee staff to maintain the confidentiality
24 of any confidential material accessed.

25 The bill requires that a law establishing an agency
26 enacted on or after July 1, 2020, unless the agency is
27 expressly exempted from the sunset by law, to include a
28 sunset clause clearly indicating the date of the agency's
29 sunset if the agency is not reauthorized by enactment by the
30 general assembly. The bill requires that an enactment that
31 reauthorizes the agency prior to sunset of the agency to
32 include a provision specifying that the agency sunset at a
33 date not more than 12 years from the effective date of the
34 enactment. The bill prohibits funding from being expended
35 for or by an agency that has sunset unless expressly provided

1 by law. The bill defines "sunset" as the termination of all
2 activities of an agency.

3 The sunset of an agency does not affect the rights and duties
4 that matured, penalties incurred or imposed, civil or criminal
5 liabilities that arose, or proceedings initiated in connection
6 with the agency before the effective date of the agency's
7 sunset, unless otherwise expressly provided by law.

8 The bill authorizes an agency that has sunset to continue in
9 existence to conclude its business until July 1 of the fiscal
10 year following the fiscal year in which the agency was sunset.
11 Unless otherwise provided by law, the sunset of an agency
12 does not reduce or otherwise limit the powers and authority
13 of the agency during the concluding year. The bill requires
14 the agency to terminate all activities on or before that date,
15 and provides that all rules adopted by the agency shall be
16 void on that date. The bill provides that any unobligated or
17 unexpended appropriations of an agency that has sunset shall
18 lapse and revert to the general fund of the state on that date.

19 The bill provides that all moneys in a dedicated fund of
20 an agency that has sunset shall be transferred to the general
21 fund of the state on July 1 of the fiscal year following the
22 fiscal year in which the agency was sunset, except as provided
23 in the bill or as otherwise provided by law. Any portion of a
24 law dedicating moneys to a specific fund of an agency that has
25 sunset is void on that date.

26 The bill provides that the property and records in the
27 custody of an agency that has sunset shall be transferred to
28 the department of administrative services on July 1 of the
29 fiscal year following the fiscal year in which the agency was
30 sunset unless the governor designates an appropriate agency as
31 described in the bill.

32 The bill provides that the sunset of an agency shall not
33 impair or impede payment of bonded indebtedness and all
34 other obligations, including lease, contract, and other
35 written obligations, in accordance with their terms. If an

1 agency that is sunset has outstanding bonded indebtedness or
2 other outstanding obligations, the bonds and all other such
3 obligations remain valid and enforceable in accordance with
4 their terms and subject to all applicable terms and conditions
5 of the laws and proceedings authorizing the bonds and all other
6 such obligations. The bill requires the governor to designate
7 an appropriate agency to continue to carry out all covenants
8 contained in the bonds and all other such obligations and to
9 perform all other such obligations to complete the construction
10 of projects or perform other such obligations. The bill
11 provides procedures for a designated agency to carry out those
12 duties.

13 If an employee is discharged because the agency employing
14 the employee sunsets, the bill requires the affected agency and
15 the department of workforce development to make a reasonable
16 effort to assist the discharged employee in obtaining new
17 employment.

18 The bill provides that the new Iowa sunset Act shall not be
19 construed to restrict the general assembly from enacting an
20 agency sunset at a date earlier than required under the bill or
21 considering any other legislation concerning an agency subject
22 to this Code chapter.

23 The bill strikes language creating a state government
24 efficiency review committee within the general assembly.

25 The bill takes effect upon enactment.